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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/988,103	11/13/2001	Terry S. Owens	8614.56	8070

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EXAMINER

SOTOMAYOR, JOHN

ART UNIT	PAPER NUMBER
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3714

DATE MAILED: 02/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/988,103	OWENS ET AL. ed	
	Examiner	Art Unit	
	John L. Sotomayor	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 November 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on November 3, 2005 has been entered.

In response to the amendment filed November 3, 2005, claims 1-20 are pending.

Claim Objections

2. Claim 5 is objected to because of the following informalities: the claim recites HTML as an acronym. The acronym must first be spelled out before using the acronym. In the instant case, Hypertext Markup Language must be presented in a claim before using the acronym HTML. Appropriate correction is required.

Claims 17 and 18 are objected to because of the following informalities: In the claim recitation of contentcomprises a space must be inserted between the two words. Appropriate correction is required.

Claim 20 is objected to because of the following informalities: In the claim the words "a method for" is repeated twice. One of the sequences needs to be removed. Appropriate correction is required.

Art Unit: 3714

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 20 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims to computer programs (i.e. computer program product) *per se* have been held to be non-statutory subject matter (See MPEP 2106 (IV)(B)(1)(a)). On the other hand, a claim to a computer-readable medium encoded with a computer program product is a computer element which defines structural and functional interrelationships between the computer program product and the rest of the computer which permit the computer program's functionality to be realized, and is thus statutory.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claim 20 is rejected under 35 U.S.C. 102(e) as being anticipated by Weingarden et al (US 6,164,975).

Regarding claim 20, Weingarden et al discloses a system, method and computer program product for instruction through the use of a plurality of nodes, a plurality of computer systems

Art Unit: 3714

for storing information including source content using referential pointers that serve as anchors for the information, network inclusion, preserving nodes and relationships in a computer readable medium, and an index which includes the relationships of a plurality of nodes (Col 1, lines 25-67 and Col 2, lines 1-40).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later

Art Unit: 3714

invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weingarden et al in view of Jawahar (US 6,256,620) and Sloane et al (US 5,813,863).

Regarding claim 1, Weingarden et al discloses a system, method and computer program product for instruction through the use of a plurality of nodes, a plurality of computer systems for storing information including source content using referential pointers that serve as anchors, which are constructs defined in the specification as “indications that refer to a particular location, file, object or piece of information”. Such a definition includes an index, which is disclosed by Weingarden et al. The anchor, or index, is constructed for referencing information, network inclusion, and expressions based upon the relationships of a plurality of nodes (Col 1, lines 25-67 and Col 2, lines 1-40). Weingarden et al does not specifically disclose establishing one or more nodes and relationships between said nodes as extracted from a plurality of anchors, an output means which renders an education expression based on the relationship of the one or more nodes, or an output device that renders an educational test question to a user. However, Jawahar teaches a transactional training system in which a transaction agent extracts a master object such as a transaction initiator from a stream of data incoming across a network communications connection that functions as an anchor (Col 5, lines 55-67) that establishes and manages the data relations for a particular product in an information module (Col 6, lines 1-7), and that data, which includes a plurality of data types including a database, video clip, image or sound file from a browser application (Col 6, lines 8-21), from a plurality of nodes extracted from said anchors is used to establish nodes and data relationships between nodes including links between

Art Unit: 3714

nodes (Col 8, lines 21-42). The anchor extracted by the transactional training system taught by Jawahar maintains the relationship between the extracted anchor and the data associated with the anchor for populating a database with transactional material. Information objects that are built as educational resources for retrieval from the database, and output to file and print capabilities are inherent features of any database system. In addition, Sloane et al teaches an educational system with a multimedia output channel that presents questions to a user in which said questions are based upon the relationship of one or more multimedia nodes (Col 7, lines 7-12). Therefore, it would have been obvious to one of ordinary skill in the art to produce a system for organizing electronic data relationships comprising electronic source content that includes a plurality of anchors as disclosed by Weingarden et al and extracting anchors to establish one or more nodes and relationships between the nodes, a plurality of computing devices on a network, and an output device used to produce an education information object based on the relationship of the one or more nodes as taught by Jawahar, and an output device that renders an educational test question to a user as taught by Sloane et al for the purposes of cross-correlating educational information in multiple databases and presenting the output to a user to facilitate the user's learning experience.

Regarding claims 2 and 3, Weingarden et al discloses that the system may be used on a single computer system (claim 2) or on a plurality of computer devices (claim 3) (Col 2, lines 65-67).

Regarding claim 4, Weingarden et al discloses that the system and method that includes text that is preserved on a computer readable medium (Col 1, lines 40-45).

Art Unit: 3714

Regarding claim 5, Weingarden et al does not specifically disclose that the source content includes HTML code. However, Weingarden et al does disclose that the system is used to provide presentations over a global computer network such as the Internet. The most common method of presentation over the Internet is through a Web browser, which is programmed in HTML. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to provide a system and method wherein the source content includes HTML code.

Regarding claims 6 and 7, Weingarden et al discloses that the system and method utilizes a tree-based facility for nodes to establish a network of corresponding conceptual nodes (Col 1, lines 53-57).

Regarding claims 8 and 9, Weingarden et al discloses that the system utilizes a local area network (claim 8) and the Internet (claim 9) for network access and operation (Col 2, lines 33-40).

Regarding claim 10, Weingarden et al discloses a system with a computer readable medium accessible through the use of a web page (Col 2, lines 34-35).

8. Claims 11-16 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weingarden et al in view of Luh and Sloane et al.

Regarding claim 11, Weingarden et al discloses a system, method and computer program product for instruction through the use of a plurality of nodes, a plurality of computer systems for storing information including source content using referential pointers that serve as anchors for the information, network inclusion, preserving nodes and relationships in a computer readable medium, and an index which includes the relationships of a plurality of nodes (Col 1, lines 25-67 and Col 2, lines 1-40). Weingarden et al does not specifically disclose that

Art Unit: 3714

relationships between the plurality of nodes are based on at least one of a time and space relation, an objective assignment of meaning relation, a subjective assignment of meaning relation, a planning relation, an implementation relation or a central relation, selectively providing one or more educational expressions based on the relationship that connects a first and a second nodes, or an output device that renders an educational test question to a user. However, Luh teaches that a plurality of relationships between nodes are established (Col 4, lines 13-17) and that relationships between the plurality of nodes are based on at least one of a time and space relation, an objective assignment of meaning relation, a subjective assignment of meaning relation, a planning relation, an implementation relation or a central relation (Col 5, lines 13-37 and Col 6, lines 40-45) and selectively providing one or more educational expressions based on the relationship that connects a first and a second nodes (Col 3, 14-30 and 62-65). Multiple database objects are commonly located on separate computer readable media and addressed through separate node addressing. In addition, Sloane et al teaches an educational system with a multimedia output channel that presents questions to a user in which said questions are based upon the relationship of one or more multimedia nodes (Col 7, lines 7-12). Therefore, it would have been obvious to one of ordinary skill in the art at to provide a system and method for instruction through the use of a plurality of nodes, a plurality of computer systems for storing information including source content using referential pointers that serve as anchors for the information, network inclusion, preserving nodes and relationships in a computer readable medium, and an index which includes the relationships of a plurality of nodes as disclosed by Weingarden et al in which relationships between the plurality of nodes are based on at least one of a time and space relation, an objective assignment of meaning relation, a subjective

Art Unit: 3714

assignment of meaning relation, a planning relation, an implementation relation or a central relation, selectively providing one or more educational expressions based on the relationship that connects a first and a second nodes as taught by Luh, and an output device that renders an educational test question to a user as taught by Sloane et al for the purposes of providing educational expressions collected from multiple database nodes for facilitating the educational experience of the user.

Regarding claim 12, Weingarden et al discloses a method with steps for selectively associating objects to a plurality of nodes which includes a first node and a second node (Col 2).

Regarding claim 13, Weingarden et al discloses a method in which objects comprise one or more of text, graphics, audio and video files (Col 1, lines 40-46).

Regarding claim 14, Weingarden et al discloses a method for selectively providing information including receiving a request for one or more objects and providing the requested objects (Col 2).

Regarding claim 15, Weingarden et al does not specifically disclose that one or more identified objects are sent over a network via email. However, it is common and well-known in the art to communicate objects over a global network such as the Internet through the use of an email program. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to provide a system and method wherein one or more identified objects are sent via email to take advantage of the public infrastructure to communicate with users at remote locations.

Regarding claim 16, Weingarden et al discloses a method in which the establishment of network node connections is accomplished automatically (Col 1).

Art Unit: 3714

Regarding claim 19, Weingarden et al discloses a method in which an automated acquisition of data is accomplished through the system asking for information in order to elicit answers (Col 7).

9. Claims 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weingarden et al/Luh/Sloane et al as applied to claim 11 above and in further view of Jawahar.

Regarding claims 17 and 18, Weingarden et al/Luh/Sloane discloses a method in which establishing a referential pointer for use as an anchor for a plurality of nodes consists of locating an anchor in the source content (Col 2). Weingarden et al/Luh/Sloane does not specifically disclose converting a first anchor into a first conceptual node. However, Jawahar teaches that data from an anchor is used to establish a first conceptual node (Col 4, lines 53-63). Therefore, it would have been obvious to one of ordinary skill in the art to provide a method in which establishing a referential pointer for use as an anchor for a plurality of nodes consists of locating an anchor in the source content as disclosed by Weingarden et al/Luh/Sloane and converting the anchor to a conceptual node as taught by Jawahar for the purposes of providing greater ease of access to the data and relationships contained in the anchors of the database.

Response to Arguments

Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

Art Unit: 3714

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Nair et al (US 6,366,824) for a discussion of a referential database built from anchors that includes nodal relationships.

Carpenter (US 6,199,068) for a discussion of mapping dissimilar file formats and the use of anchor and nodal relationships to confer meaning on the mapped data.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John L Sotomayor whose telephone number is 571-272-4456. The examiner can normally be reached on 6:30-4:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on 571-272-4419. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jls
January 26, 2005

Chanda L. Harris
Primary Examiner
Art Unit 3714